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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/609,228	06/30/2000	Luigi Forlai	07704.0006	2813
22852	7590	07/01/2003		
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 1300 I STREET, NW WASHINGTON, DC 20005			EXAMINER	SUBRAMANIAN, NARAYANSWAMY
			ART UNIT	PAPER NUMBER
			3624	

DATE MAILED: 07/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/609,228	FORLAI, LUIGI
	<b>Examiner</b>	<b>Art Unit</b>
	Narayanswamy Subramanian	3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 30 June 2000.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

4) Claim(s) 1-25 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) \_\_\_\_\_ is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) 1-25 are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1, 8-16, drawn to a method of making a sale offer over an electronic network system, including the step of completing the sale of the product or service through the electronic network system in response to an acceptance of an offer by a buyer within the predetermined period of time, classified in class 705, subclass 37.

II. Claims 2, 6, 17, 20-25, drawn to a method for using an electronic network system to facilitate a transaction between a seller and a buyer, including the step of randomly displaying, through the electronic network system, the at least one sale offer to a selected buyer at an unexpected period of time, classified in class 705, subclass 37.

III. Claims 3, 18, 19, drawn to an apparatus for facilitating a transaction between a buyer and a seller, comprising a storage device and a processor connected to the storage device, wherein said storage device stores a program for controlling the processor, and said processor is operative with the program for providing, on a Web site, to one or more selected buyers, a notice of a randomly generated sale offer and an acceptance form, receiving the acceptance form completed by the buyer, the completed acceptance form being received in response to the sale offer, receiving a payment identifier from the buyer specifying a credit card account, the payment identifier being associated with the sale offer and providing payment to the seller by using the payment identifier, classified in class 705, subclass 37.

IV. Claim 4, drawn to an apparatus for facilitating a sale offer transaction between a seller and a buyer, comprising a random sale offer generating device configured for randomly generating an offer to purchase a product or service on an electronic network system, a

communication device configured for communicating the randomly generated offer through the electronic network system for a predetermined period of time to at least one selected buyer and a processing system configured for completing the sale of the product or service through the electronic network system in response to an acceptance of the offer by the buyer within the predetermined period of time, wherein the processing system is configured for removing the offer from the electronic network system when the at least one buyer does not indicate acceptance of the offer within the predetermined period of time, classified in class 705, subclass 37.

V. Claim 5, drawn to an apparatus for facilitating a transaction between a seller and a buyer, comprising a processing system for receiving a sale offer parameter from the seller and randomly generating at least one sale offer to at least one selected buyer to purchase a product or service based on the sale offer parameter inputted from the seller and a random generation device configured for randomly displaying the at least one sale offer to a buyer at an unexpected period of time, wherein the processing system is configured for withdrawing the randomly generated sale offer in the event the buyer does not indicate acceptance of the randomly generated sale offer within a predetermined period of time after the random generation device has displayed the randomly generated sale offer, classified in class 705, subclass 37.

VI. Claim 7, drawn to a system for providing an electronic sale offer from a seller to at least one selected buyer visiting an Internet web site, comprising a generating device for generating an electronic sale offer of a product or service based on at least one parameter defined by the seller, means for displaying the electronic sale offer of the product or service to the at least one selected buyer visiting the Internet web site at a point in time unknown to the buyer and

a timing device in communication with the generating device and the display means for withdrawing the displayed sale offer from the Internet web site if the at least one buyer does not indicate acceptance of the offer within a predetermined period of time, classified in class 705, subclass 37.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as sub combinations disclosed as usable together in a single combination. The sub combinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I relates to a method of making a sale offer over an electronic network system, including the step of completing the sale of the product or service through the electronic network system in response to an acceptance of an offer by a buyer within the predetermined period of time, whereas invention II relates to a method for using an electronic network system to facilitate a transaction between a seller and a buyer, including the step of randomly displaying, through the electronic network system, the at least one sale offer to a selected buyer at an unexpected period of time. See MPEP § 806.05(d). Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper even though they are classified in the same class and sub class.

Inventions I and III are related as sub combinations disclosed as usable together in a single combination. The sub combinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I relates to a method of making a sale offer over an electronic network system, including the steps of completing the sale of the product or service through the electronic network system in response to an acceptance of an offer by a buyer within

the predetermined period of time, whereas invention III relates to an apparatus for facilitating a transaction between a buyer and a seller, comprising a storage device and a processor connected to the storage device, wherein said storage device stores a program for controlling the processor, and said processor is operative with the program for providing, on a Web site, to one or more selected buyers, a notice of a randomly generated sale offer and an acceptance form, receiving the acceptance form completed by the buyer, the completed acceptance form being received in response to the sale offer, receiving a payment identifier from the buyer specifying a credit card account, the payment identifier being associated with the sale offer and providing payment to the seller by using the payment identifier. See MPEP § 806.05(d). Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group III, restriction for examination purposes as indicated is proper even though they are classified in the same class and sub class.

Inventions I and IV are related as sub combinations disclosed as usable together in a single combination. The sub combinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I relates to a method of making a sale offer over an electronic network system, including the steps of completing the sale of the product or service through the electronic network system in response to an acceptance of an offer by a buyer within the predetermined period of time, whereas invention IV relates to an apparatus for facilitating a sale offer transaction between a seller and a buyer, comprising a random sale offer generating device configured for randomly generating an offer to purchase a product or service on an electronic network system, a communication device configured for communicating the randomly generated offer through the electronic network system for a predetermined period of time to at

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least one selected buyer and a processing system configured for completing the sale of the product or service through the electronic network system in response to an acceptance of the offer by the buyer within the predetermined period of time, wherein the processing system is configured for removing the offer from the electronic network system when the at least one buyer does not indicate acceptance of the offer within the predetermined period of time. See MPEP § 806.05(d). Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group IV, restriction for examination purposes as indicated is proper even though they are classified in the same class and sub class.

Similarly other pairing of inventions stated above are related as sub combinations disclosed as usable together in a single combination. These inventions are distinct from each other as can be evident from the definition of the groups described above. Also they require separate searches and hence restriction of these inventions for examination purposes as indicated is proper.

3. A telephone call was made to Mr. Christopher W. Day on June 23, 2003 to request an oral election to the above restriction requirement, but did not result in an election being made.

4. Applicants are advised that reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Narayanswamy Subramanian whose telephone number is (703) 305-4878. The examiner can normally be reached Monday-Thursday from 8:30 AM to 7:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's

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supervisor, Vincent Millin can be reached at (703) 308-1065. The fax number for Formal or Official faxes and Draft or Informal faxes to Technology Center 3600 or this Art Unit is (703) 305-7687. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1113.

N. Subramanian

June 24, 2003

Richard Weisberger

Primary Examiner